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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/680,651

10/07/2003

Billy J. Fuller

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5108

45840

7590

06/02/2006

WOLF GREENFIELD (Microsoft Corporation)

C/O WOLF, GREENFIELD & SACKS, P.C.

FEDERAL RESERVE PLAZA

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BOSTON, MA 02210-2206

EXAMINER

IQBAL, NADEEM

ART UNIT

PAPER NUMBER

2114

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/680,651	Applicant(s) FULLER ET AL.	
	Examiner Nadeem Iqbal	Art Unit 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>Oct 7, 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 8, 13, & 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wisecup (U.S. Patent number 6167532).

3. As per claims 1 & 13, Wisecup teaches (col. 1, lines 28-30) an apparatus and methods to recover from a computer system error. With reference to a test computer network comprising at least one test computer having a plurality of bootable partitions for controlling the at least one test computer and a bootable system within each of the plurality of a bootable partitions, an instance of the distributed application. He teaches (col. 1, lines 29-31). With reference to a launcher for determining whether the bootable system is schedule to be running, and causing another bootable system on the same test computer to boot instead if the bootable system is not schedule to be running. He teaches (col. 1, lines 32-35).

4. As per claim 2, With reference to each bootable system further comprises a scheduler usable by the launcher for determining whether the bootable system is schedule to be running. He teaches (col. 1, lines 41-43).

5. As per claim 8, Wisecup substantially teaches the claimed invention as disclosed related to claim 1 above. With reference to booting a selected one of the bootable partitions on, running the instance of the distributed application of the bootable system associated with the selected

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bootable partition. He teaches (col. 1, lines 29-31). With reference to a launcher for determining whether the bootable system is schedule to be run, and causing another bootable system on the same test computer to boot instead if the bootable system is not schedule to be running. He teaches (col. 1, lines 32-35).

6. As per claims 17, Wisecup teaches (col. 1, lines 28-30) an apparatus and methods to recover from a computer system error. With reference to booting a selected one of the bootable partitions on a test computer, running the instance of the distributed software of the bootable system. He teaches (col. 1, lines 29-31). With reference to determining whether the bootable system is schedule to be running, and causing another bootable system on the same test computer to boot instead if the bootable system is not schedule to be running. He teaches (col. 1, lines 32-35).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 3-7, 9-12, 14-16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wisecup (U.S. Patent number 6167532) in view of Ahrens et al., (U.S. Patent number 6823482).

10. As per claims 3, 4 & 14, Wisecup does not explicitly disclose server information usable by the launcher for retrieving a command file from a command server, and diagnostic data to be sent to a diagnostic server. Ahrens et al., teaches (col. 2, lines 34-36) creating a report of detected errors and also teaches (col. 4, lines 14-16) a remote client system that will send remote error report to the remote service provider when an error is detected. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the invention of Ahrens into the invention of Wisecup for retrieving a command file and sending diagnostic data to a diagnostic server. This is because Wisecup already teaches to detect errors and further teaches (col. 1, lines 39-41) to identify errors and responded to, therefore providing motivation to a person of ordinary skill in the art for the stated inclusion.

11. As per claim 5, With reference to diagnostic server and the command server residing on a single computing device. Wisecup teaches (col. 1, lines 39-41) that errors occurring during the system boot process can be identified and responded to thereby requiring a diagnostic server and the command server to reside on a single device.

12. As per claims 6 & 15, Ahrens et al., teaches (col. 2, lines 34-36) creating a report of detected errors and also teaches (col. 4, lines 14-16) a remote client system that will send remote error report to the remote service provider when an error is detected.

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13. As per claim 7, With reference to each of the at least one test computers hosts the same number of bootable systems as each other of the at least one test computers. Wisecup teaches (col. 5, lines 14-16).

14. As per claims 9 & 10, Wisecup does not explicitly disclose server information usable by the launcher for retrieving a command file from a command server, and diagnostic data to be sent to a diagnostic server. Ahrens et al., teaches (col. 2, lines 34-36) creating a report of detected errors and also teaches (col. 4, lines 14-16) a remote client system that will send remote error report to the remote service provider when an error is detected. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the invention of Ahrens into the invention of Wisecup for retrieving a command file and sending diagnostic data to a diagnostic server. This is because Wisecup already teaches to detect errors and further teaches (col. 1, lines 39-41) to identify errors and responded to, therefore providing motivation to a person of ordinary skill in the art for the stated inclusion.

15. As per claims 11 & 12, Ahrens et al., teaches (col. 2, lines 34-36) creating a report of detected errors and also teaches (col. 4, lines 14-16) a remote client system that will send remote error report to the remote service provider when an error is detected.

16. As per claims 15 & 16, Ahrens et al., teaches (col. 2, lines 34-36) creating a report of detected errors and also teaches (col. 4, lines 14-16) a remote client system that will send remote error report to the remote service provider when an error is detected.

17.

18. As per claim 18, Wisecup does not explicitly disclose server information usable by the launcher for retrieving a command file from a command server, and diagnostic data to be sent to

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a diagnostic server. Ahrens et al., teaches (col. 2, lines 34-36) creating a report of detected errors and also teaches (col. 4, lines 14-16) a remote client system that will send remote error report to the remote service provider when an error is detected. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the invention of Ahrens into the invention of Wisecup for retrieving a command file and sending diagnostic data to a diagnostic server. This is because Wisecup already teaches to detect errors and further teaches (col. 1, lines 39-41) to identify errors and responded to, therefore providing motivation to a person of ordinary skill in the art for the stated inclusion.

19. As per claims 19 & 20, Ahrens et al., teaches (col. 2, lines 34-36) creating a report of detected errors and also teaches (col. 4, lines 14-16) a remote client system that will send remote error report to the remote service provider when an error is detected.

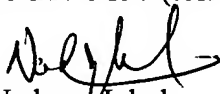
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nadeem Iqbal whose telephone number is (571)-272-3659. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571)-272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nadeem Iqbal
Primary Examiner
Art Unit 2114

NI